

IC 23-14-48.5

Chapter 48.5. Consumer Protection Fund for Cemetery Maintenance

IC 23-14-48.5-1

Application

Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to:

- (1) a cemetery owned by a municipal corporation or other governmental unit;
- (2) a religious cemetery; or
- (3) a cemetery:
 - (A) that is ten (10) acres or less in size;
 - (B) that is owned and operated entirely and exclusively by a nonprofit mutual association in existence on June 14, 1939; and
 - (C) in which burials took place before June 14, 1939.

(b) This chapter applies to the whole of a cemetery described in subsection (a)(3) if, directly or indirectly:

- (1) any structure is constructed above or below ground in the cemetery and interment rights in the structure are offered for sale to the general public; or
- (2) the acquisition of:
 - (A) additional land; or
 - (B) an interest in additional land;causes the cemetery to exceed ten (10) acres in size.

As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-2

"Board"

Sec. 2. As used in this chapter, "board" means the state board of funeral and cemetery service established by IC 25-15-9-1.

As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to the consumer protection fund for cemetery maintenance established by section 4 of this chapter.

As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-4

Consumer protection fund for cemetery maintenance; establishment; funding; continuously appropriated

Sec. 4. (a) The consumer protection fund for cemetery maintenance is established. The board shall administer the fund and shall deposit contributions remitted under section 5 of this chapter in the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The money in the fund and the interest accruing to the fund remain in the fund and do not revert to the state general fund.

(d) Money in the fund is continuously appropriated for the purposes of this chapter.

As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-5

Duties of cemetery owner; payment

Sec. 5. (a) The owner of a cemetery shall contribute the following to the fund:

(1) In the case of a cemetery for earth burials, an amount equal to one percent (1%) of the sale price of each burial plot sold or transferred.

(2) In the case of a community or public mausoleum or a community or public garden crypt, an amount equal to one percent (1%) of the sale price of each sale of entombment or inurnment rights.

(3) In the case of a community columbarium, an amount equal to two dollars (\$2) per niche sold or transferred.

The owner shall remit the contributions required under this subsection to the board for deposit in the fund.

(b) In the case of a payment to a cemetery owner of part of the sale price for a burial plot, entombment or inurnment rights, or a niche, the cemetery owner shall pay to the fund an amount proportional to the amount required by subsection (a)(1) through (a)(3). In the case of a nonmonetary transfer in the sale of a burial plot, entombment or inurnment rights, or a niche, the cemetery owner shall pay to the fund the cash equivalent of the amount that would be required by subsection (a)(1) through (a)(3) if the sale were for cash. The payment by the cemetery owner under this section must be in cash and shall be remitted to the board:

(1) not later than March 1 of each year for payments received in the preceding calendar year; or

(2) not later than March 1 of each year for nonmonetary transfers in the preceding calendar year.

(c) Payments are required under this section only on the original sale or transfer and are not required for any subsequent resale or transfer of the same plot, rights, or niche.

As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-6

Use of money in fund

Sec. 6. Money in the fund may be used to provide cemetery maintenance when the board finds that:

(1) the owner of a cemetery is unable to maintain the cemetery;

(2) money in the perpetual care fund of the cemetery is depleted, subject to a dispute that prevents distribution of the money, or otherwise unavailable for the purposes of the perpetual care fund; and

(3) interested persons are unable to take over the management,

care, and general supervision of the cemetery under
IC 23-14-48-10.

As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-7

**Filing verified complaint for maintenance assistance; investigation;
contracting for maintenance; recovering funds; annual review**

Sec. 7. (a) The:

- (1) owner of a cemetery; or
- (2) if the owner of a cemetery is unable to be determined:
 - (A) the owner of a lot in the cemetery;
 - (B) the next of kin of an owner of a lot in the cemetery; or
 - (C) another interested person;

may request maintenance assistance from the fund by filing a verified complaint with the board.

(b) The board shall investigate each verified complaint. Within thirty (30) days after a verified complaint is filed, the board shall complete its investigation and issue findings of fact. If the board makes the findings required under section 6 of this chapter concerning a cemetery, the board may enter into a contract with any suitable person to provide maintenance at the cemetery until a responsible person is able to provide care and maintenance for the cemetery.

(c) If the cost of maintaining a cemetery is paid from the fund, the fund is entitled to recover the amount paid from the owner of the cemetery, and the board shall ask the attorney general to take all reasonable steps to collect that amount from the cemetery owner. Any amount collected from a cemetery owner under this subsection shall be deposited in the fund.

(d) The board shall annually review the status of the fund. If the board determines during its annual review that the fund balance equals or exceeds two hundred fifty thousand dollars (\$250,000), the board shall suspend the requirement to make payments to the fund under section 5 of this chapter until after the next annual review in which the board determines that the fund balance is less than two hundred fifty thousand dollars (\$250,000).

As added by P.L.65-2007, SEC.3.